

**Minutes of meeting**

**VIRGINIA REAL ESTATE APPRAISER BOARD**

**INFORMAL FACT-FINDING CONFERENCES  
NOVEMBER 25, 2003 (9:00 AM)**

The Virginia Real Estate Appraiser Board convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Michael G. Miller, Board Member, Presided. No other board members were present.

Douglas Schroder appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case  
Lic=Licensing Application

C=Complainant/Claimant  
A=Applicant  
R=Respondent/Regulant  
PB=Principal Broker  
SA=Sales Agent  
Invest=Investigator  
W=Witness

**Participants**

Stephanie Lynne Powers  
File Number 2004-01460 (Lic)

Stephanie Powers – A  
Marilyn Powers - W

Mark Jonathan Lehn  
File Number 2004-01636 (Lic)

Mark Lehn – A

Beverly T. Davis  
File Number 2003-01094 (Discp)

Beverly Davis – R  
Allen Oberlin – C  
John Bockman – W

The meeting adjourned at 11:38 a.m.

Virginia Real Estate Appraiser Board

  
\_\_\_\_\_  
David N. Castle, Chairman

  
\_\_\_\_\_  
Louise Fontaine Ware, Secretary

COPY TESTE:

\_\_\_\_\_  
Custodian of Records

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
REAL ESTATE APPRAISER BOARD**

**IN RE: STEFANIE LYNNE POWERS  
APPLICATION**

**FILE NUMBER: 2004-01460**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on November 25, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Stefanie Lynne Powers on October 16, 2003. The following individuals participated at the conference: Stephanie Lynne Powers; Applicant; Marilyn Powers, Applicants Step-Mother; Douglas W. Schroder, Staff Member; and Michael G. Miller, Presiding Board Member.

**Summation of Facts**

1. Stephanie Lynne Powers (Powers) applied for a Real Estate Appraiser Trainee License on or about September 26, 2003, and disclosed a criminal conviction.
2. On or about October 3, 2003, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.

### **Prior Criminal Convictions**

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Powers was convicted of Identity Fraud, a misdemeanor, on or about October 22, 2002, in the General District Court, for the County of Rockingham.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. Ms. Powers' conviction occurred approximately 1 year ago. The applicant held a valid DMV drivers license. This license required the holder to follow and abide by the laws of the Commonwealth. The applicant disregarded these laws by driving on a revoked license. The applicant further disregarded the law by giving an officer of the law a false identification. The applicant did not admit to this crime until the true identity of the DMV licensee was found. This pattern shows a disregard for the responsibilities as a license holder. This indicates that the applicant could be a danger to the public if a license was granted.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

By granting a license, this could encourage further problems or further criminal activity within the profession. The identity fraud shows a lack of respect for the law.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

The conviction of identity fraud within the past year causes great concern. This does not bode well for the applicant's ability, capacity, or fitness required to perform the duties required for the profession.

5. The extent and nature of the person's past criminal activity;

Powers was convicted of Identity Fraud, a misdemeanor.

6. The age of the person at the time of the commission of the crime;

Powers was approximately 20 years of age at the time of the crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The offense occurred on or about early 2002.

8. The conduct and work activity of the person prior to and following the criminal activity; and

During the IFF, Powers stated she had worked at various administrative positions.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

The applicant did not show sufficient evidence of rehabilitation at this time.

### **Conclusion and Recommendation**

Based upon the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, I recommend Powers' application be denied. Ms. Powers has a pattern of disregard for the responsibility as a license holder.

By: \_\_\_\_\_

Michael G. Miller  
Presiding Board Member  
Real Estate Board

Date: \_\_\_\_\_

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
REAL ESTATE APPRAISER BOARD**

**IN RE: MARK JONATHAN LEHN  
APPLICATION**

**FILE NUMBER: 2004-01636**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on November 25, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Mark Jonathan Lehn on October 22, 2003. The following individuals participated at the conference: Mark J. Lehn, Applicant; Douglas W. Schroder, Staff Member; and, Michael G. Miller, Presiding Board Member.

**Summation of Facts**

1. Brian Jonathan Lehn (Lehn) applied for a Real Estate Appraiser Trainee license on or about October 8, 2003, and disclosed a criminal conviction.
2. On or about October 17, 2003, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.

**Prior Criminal Convictions**

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Lehn was convicted of transporting marijuana on or about September 24, 1993, in the Superior Court of the State of California in and for the County of Orange.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. Lehn's conviction occurred over 10 years ago and he has had no further criminal charges or convictions since that time. Based upon his testimony and credibility at the conference, it does not appear that Lehn is a danger to the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the above information, it does not appear that granting Lehn a license will encourage any criminal activity. Lehn has been working since his conviction. He is now married with children. He is currently working within the profession.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

Due to the age of the crime and Lehn's actions since that time, I do not see any significant relationship of the crime to his fitness to engage in licensed activity.

5. The extent and nature of the person's past criminal activity;

Lehn was convicted of transporting marijuana.

6. The age of the person at the time of the commission of the crime;

Lehn was approximately 24 years of age at the time of the crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offense occurred on or about 1993.

8. The conduct and work activity of the person prior to and following the criminal activity; and

During the IFF, Lehn stated he has been working in the business since his conviction, and has been working for the last 5 months in the appraising field.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

Lehn served 3 years probation. On May 25, 2000, based in part upon his successful completion of probation, the court set aside the finding of guilt and ordered the case dismissed, pursuant to California State law. Lehn has been in no further trouble. He is married now and has 2 children. At the time of the offense, Lehn was in college and attributed his actions to youthful indiscretion and immaturity. Lehn completed 4 years of college, receiving a Bachelors degree, and he is currently working within the profession.

### **Conclusion and Recommendation**

Based upon the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, I recommend Lehn's application be approved.

By: \_\_\_\_\_

Michael G. Miller  
Presiding IFF Board Member  
Real Estate Appraiser Board

Date: \_\_\_\_\_

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
REAL ESTATE APPRAISER BOARD**

**RE: BEVERLY T. DAVIS  
LICENSE NUMBER: 4001-001130**

**FILE NUMBER: 2003-01094**

### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on November 25, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Beverly T. Davis on October 16, 2003. The following individuals participated at the conference: Beverly T. Davis, Respondent; Allen Oberlin, Complainant; John E. Bochman, Witness; Douglas W. Schroder, Staff Member; and Michael G. Miller, Presiding Board Member.

#### **Summation of Facts**

1. On October 10, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Allen H. Oberlin (Oberlin) regarding a review appraisal performed by Beverly T. Davis (Davis) on Oberlin's appraisal of property located at 3453 Grove Hill Road Fincastle, Virginia.
2. On or about May 9, 2000, Oberlin appraised property located at 3453 Grove Hill Road Fincastle, Virginia. This was an FHA appraisal for the US Department of Housing and Urban Development (HUD).
3. HUD contracted with Davis, who performed a review of Oberlin's appraisal on October 26, 2000.
4. Oberlin's market value of the subject was \$76,000.00, while Davis' value of the subject was \$70,000.00. Davis reported several specific deficiencies in her review to HUD that were not noted in Oberlin's appraisal. These deficiencies include leaking toilet, and wet sub-floor around the toilet.
5. During the IFF, Davis admitted that the appraisal did not contain a "scope of work" within her review.

Davis did not report the degree in which the property was inspected, or the extent of research into physical factors that affected the property. In submitting a review approximately five months after Oberlin's original appraisal, Davis used information and conditions that could not have been available to Oberlin when Davis developed her opinion as to the quality of work. Davis failed to develop a review appraisal which was

conducted in the context of market conditions as of the effective date of the opinion of the work being reviewed.

### **Conclusion and Recommendation**

Count 1: 18 VAC 130-20-180(F) (Effective March 4, 1998)  
To wit: USPAP 2000 Standard Rule 3-1(c)

Davis' failure to comply with the requirements of Standard 3-1(c) of the Uniform Standards of Professional Appraisal Practice is in violation of the Board's 1998 Regulation 18 VAC 130-20-180(F). Therefore, I recommend a monetary penalty of \$800.00 be imposed, with \$500.00 to be suspended if Davis takes a 7 hour USPAP remedial course within 6 months of the date of the final order. This USPAP class will not count towards continuing education as outlined in the Rules and Regulations of the Real Estate Appraiser Board.

By: \_\_\_\_\_

**Michael G. Miller**  
**Presiding IFF Board Member**  
**Real Estate Appraiser Board**

Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 4001-001130 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

1. Name: Michael G. Miller
2. Title: Member, Virginia Real Estate Appraiser Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Informal Fact-Finding Conference on November 25, 2003
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

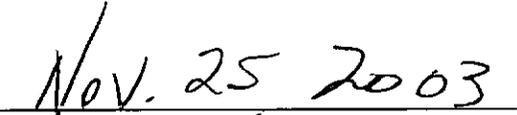
6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

\_\_\_\_\_

(b) I am able to participate in this transaction fairly, objectively, and in the public-interest.

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date